

# Local Government Employee-Management Relations Board E-Newsletter

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## Members of the Board

Brent C. Eckersley, Esq., Chair  
Sandra Masters, Vice-Chair  
Philip E. Larson, Board Member  
Cam Walker, Board Member  
Gary Cottino, Board Member

## Staff

Bruce K. Snyder, Commissioner  
Marisu Romualdez Abellar,  
Board Secretary

## Required Public Hearing for Regulations Set for January 10th

The EMRB recently held a second public workshop for the proposed amendments to its set of regulations. There was a good turnout for the workshop, which was held on October 31<sup>st</sup> – and we thank everyone who took time from their busy schedules to attend.

Those in attendance recommended two changes to the initial draft of the regulations. First, they recommended that Section 7.4, which pertains to the contents of a petition for reconsideration, be relaxed to allow more discretion as to what may be argued in such a petition. A petition for reconsideration may be filed whenever a panel of three Board members splits its decision in a given case and is the means to request that the decision be reconsidered by all five Board members.

The second recommended change related to requests for rehearing. The initial draft restricted this opportunity. Those in attendance believed that there were statutory rights to a petition for rehearing and that those rights should not be abridged.

The agency listened to both recommendations and has since worked with the Legislative Counsel Bureau to make the recommended changes. This has resulted in a revised draft, which was recently received by the agency.

The agency is now ready for the next step in the process, which is the holding of a public hearing and possible adoption of the revised draft by the Board. Notice of 30 days is required before such a public hearing. Since we did not want to hold the public hearing during the upcoming December holidays, the public hearing will instead be held Tuesday, January 10<sup>th</sup> at 8:10 a.m. The public hearing will be video-conferenced to Carson City.

The required notice will be issued in the next couple of weeks, so be sure to look for it in your mailbox and in your e-mail inbox. The notice will also contain the revised draft of the proposed regulations. If you are unable to attend you are more than welcome to submit a written response to the address or e-mail address above.

If and when the Board approves the regulation it will then be submitted to the Legislative Commission for final approval. If all goes well we would expect the regulation to take effect sometime in March or April 2018.

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**Please note our office will be closed on November 23<sup>rd</sup> and 24<sup>th</sup> for the Thanksgiving holiday. Any filings e-mailed during this time will be dated the day they are received in our e-mail inbox. The office will reopen on Monday, November 27<sup>th</sup>.**

## How the Panels Would Work

Some of you have asked how – in lay terms - the proposed panels would actually work, which would be set up once the regulations take effect. Not counting special telephonic meetings, the Board generally meets 12 times per year for up to three days for each meeting. Thus the Board has in the past met up to 36 days per year.

SB 460 has increased the size of the Board from three to five members. The intent was to create panels of three Board members to hear cases, thus allowing for 20 Board meetings per year meeting for up to 60 days per year, while each particular Board member would still keep a commitment of only needing to attend 12 meetings per year. This would give the opportunity to reduce the time it takes to hear a given case.

Five panels would be created. When a case is filed it would be assigned to the next panel to meet. That panel would both hear initial motions and also decide whether a hearing should be granted. If a hearing is granted, then through a random process the case would then be reassigned to a second panel to conduct the hearing. The process was part of a recommendation at the first public workshop to prohibit forum shopping. There is a provision in the regulations in which the Commissioner can designate a case as a case of statewide significance that would be heard by all five Board members in lieu of a panel. If a panel's decision is unanimous then the losing party could file a petition for rehearing as is currently allowed. If a panel's decision is a split decision the losing party could file a petition for reconsideration, which if granted, would result in the entire Board meeting to deliberate on the case.

Per law, certain actions could only be taken by the entire Board. These include adopting regulations, hiring and firing staff, setting rates for the annual assessment, and other administrative tasks. If the regulations are adopted, it is anticipated that the panels would be as follows, with the panel's presiding officer underlined:

Panel A	<u>Eckersley</u>	Masters	Larson
Panel B	<u>Masters</u>	Larson	Walker
Panel C	<u>Larson</u>	Walker	Cottino
Panel D	Walker	Cottino	<u>Eckersley</u>
Panel E	Cottino	<u>Eckersley</u>	Masters

## Governor Sandoval Appoints Gary Cottino to the Board

SB 460, effective July 1<sup>st</sup>, increased the size of the Board from three to five members. Last month Governor Sandoval appointed Cam Walker to the Board. This month the Governor appointed Gary Cottino as the fifth member. Mr. Cottino holds a Bachelor's Degree from UNLV in Human Resources and Industrial Relations. He also holds the professional certification of Senior Professional in Human Resources from the Society for Human Resource Management (SHRM). Mr. Cottino is retired from Southwest Gas Corporation, for whom he worked for more than two decades. There he served as the Human Resources Manager of the Southern Nevada Division. Mr. Cottino currently teaches human resources classes for UNLV's Continuing Education Department, including a four-part federal employment law series and a three-part Nevada employment law series. His community service also has included serving on the boards of the Nevada State Rehabilitation Council and the Southern Nevada Center for Independent Living.

## Annual Filings Due End of November

Every local government and employee organization must annually file a report with the EMRB each November. The forms were e-mailed to the official contact person at each local government and employee organization on October 23<sup>rd</sup>. If you are the official contact person please complete the form and associated documents, if any, and return them to us by the November 30<sup>th</sup> deadline. If you are no longer the official contact person please forward the form to the person who should now be the official contact person. So far about 72% of the local governments and 26% of the employee organizations have responded. So if you have not yet responded, please do so as soon as possible!

## In the Queue...

Once initial pleadings, including pre-hearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has now scheduled cases through April 2018.

### **December 11-13, 2017 in Las Vegas**

2017-010, Kerns & Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Department

### **January 9-11, 2018 in Las Vegas**

2017-014, Kash Christopher v. City of Mesquite

2017-018, Patrick Kelso v. Juvenile Justice Probation Officers Association (backup case)

### **February 12-14, 2018 in Las Vegas**

2017-025, Yu & Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Dept.

### **March 19-21, 2018 in Las Vegas**

2017-024, IAFF, Local 1607 v. City of North Las Vegas

### **January 9-11, 2018 in Las Vegas**

2017-017, Teamsters Local 14, Williams & Davis v. Las Vegas Metropolitan Police Department

The following cases are in the queue, waiting for potential hearing dates:

2017-021, Varner, Rumbaugh & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

2017-023, Nicholas & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

2017-027, O'Neil et al. & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

## On the Horizon

The next meeting of the Board will be held in Las Vegas on Monday, December 11<sup>th</sup> through Wednesday, December 13<sup>th</sup>. The agenda for the meeting will be issued on Monday, December 4<sup>th</sup>. At that time the Board is scheduled to hear 2017-010, Kerns & Las Vegas Police Managers and Supervisors Association v. Las Vegas Metropolitan Police Department. Sgt. Kerns faced discipline over actions related to a vehicle pursuit. In lieu of facing discipline he instead retired. About a month after he retired LVMPD placed an Adjudication of Complaint in his personnel file. Kerns alleges that LVMPD committed a number of prohibited practices, including unilateral changes to the discipline process, whether LVMPD interfered with or restrained him in the exercise of his rights under the law, and whether it bargained in bad faith prior to implementing mandatory subjects of bargaining. LVMPD denies the allegations and also claims that Kerns does not have standing as he was not a local government employee at the time of his having filed a complaint in that he had already retired.

The Board will also deliberate on a case heard in September, 2017-006, Jake Grunwald & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department. Three motions involving three separate cases are also scheduled for deliberation.

### **"About the EMRB"**

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.